



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-72,197-05

EX PARTE BRYAN THOMAS BLEVINS, Applicant

**ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. 4301-D IN THE 31ST DISTRICT COURT
FROM WHEELER COUNTY**

Per curiam.

ORDER

Applicant was convicted of aggravated sexual assault of a child and sentenced to life imprisonment. The Seventh Court of Appeals affirmed his conviction. *Blevins v. State*, No. 07-08-00336-CR (Tex. App.—Amarillo Apr. 29, 2009) (not designated for publication). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant raised six grounds for relief. In his first ground, Applicant contended, among other things, that the Texas Department of Criminal Justice (“TDCJ”) has recently changed his “time sheet” to reflect that he is not eligible for release on parole for the instant offense until the actual calendar time he has served, without consideration of good conduct time, equals thirty-five years.

Applicant argued that this calculation is incorrect; He is eligible for release on parole after serving thirty calendar years. The Court remanded this parole eligibility ground for findings of fact and conclusions of law from the trial court, including whether the judgment accurately reflects that Applicant's instant offense was enhanced by a prior conviction and if so, what particular prior conviction was used.

The trial court found that Applicant's May 3, 2006, conviction for sexual assault of a child in cause no. 920H in the 69th Judicial District of Hartley County, Texas, served as the basis to enhance his instant offense occurring on August 15, 2005. Because that 2006 conviction occurred after the date of the instant offense, the trial court concluded that Applicant's judgment wrongfully reflects that the instant offense was enhanced by the 2006 conviction. It also concluded that Applicant was wrongfully sentenced (to a mandatory life sentence) as a repeat offender under Texas Penal Code § 12.42(C)(2). These findings and conclusions are supported by the record.

Nevertheless, we conclude that Applicant's first ground, concerning his complaint that TDCJ has recently started calculating his parole eligibility incorrectly, lacks merit. TDCJ appears to be following the judgment, which Applicant even now does not contend was erroneous.¹ Therefore, Applicant's first ground is denied. Applicant's remaining grounds are dismissed as subsequent. TEX. CODE CRIM. PROC. art. 11.07 § 4.

¹ In its memorandum opinion, the Court of Appeals mentioned in a footnote that the judgment reflected that the trial court found the enhancement to be "True," but the record did not reflect whether the indictment in fact contained an enhancement paragraph. *Blevins v. State*, No. 07-08-00336-CR (Tex. App.—Amarillo Apr. 29, 2009) (not designated for publication). It also noted that the reporter's record of the punishment proceeding reflected that Applicant was not asked to enter a plea as to any enhancement paragraph. *Id.* In light of the court of appeals's footnote, Applicant could have contested his judgment by raising an illegal sentence claim in his previous writ application, but he did not. Therefore, such a claim is procedurally barred. TEX. CODE CRIM. PROC. art. 11.07 § 4.

Filed: October 4, 2023

Do not publish